

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11858 of 2019

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Ratan Jagwani Son of Late M.K. Jagwani, Resident of Gyani Bhawan, East Boring Canal Road, P.S. Buddha Colony, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief secretary, Govt. of Bihar, Patna.
2. The Bihar Land Tribunal, Patna, through its Chairman.
3. The Registrar, Bihar Land tribunal, Patna.
4. The Divisional Commissioner, Patna.
5. The DCLR Danapur, District-Patna.
6. M/s Maa Development Pvt. Ltd through its M.D. Firm Office, 101, B.P. Complex, 1st Floor Kadamkuan, Patna.
7. Vijay Kumar Son of Sri Bali ram Prasad , Managing Partner, M/S Maa Development Pvt. Ltd. Firm Office, 101 B.P. Complex 1st Fkloor, Kadamkuan, Patna
8. Arpana Sahkari Grih Nirman Samiti Ltd. Patna through its Secretary Ramjee Singh Chauhan, Ramayan Apartment, Flat No. 303, New Dak Bunglow Road, Patna-1
9. Lalita devi Daughter of Late Ram Sundar Singh Resident of Village-Kanhauli, P.S.-Sarai, District-Vaishali
10. Sri Raghubansh Kumar, Son of Late Ram Ekbal Kumar, Resident of Village-Tanra, P.S.-Mohuddin Nagar, District-Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pranav Kumar Jha
For the Respondent/s : Mr.Sajid Salim Khan (SC-25)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 08-07-2019 Heard learned counsel for the parties.

2. An order of the Bihar Land Tribunal dated 22.11.2018, passed in BLT Case No. 30 of 2014 has been put to challenge in the present writ application. The petitioner was Opposite party No.4 before the Tribunal. An order dated



25.07.2013/22.10.2013, passed by the appellate authority under Bihar Land Dispute Resolution Act (hereinafter referred to as 'the Act') in Appeal No. 190 of 2013 was under challenge before the Tribunal which has been set aside by the impugned order.

3. The facts relevant for adjudication have been taken note of in the impugned order from which it transpires that the petitioner, one ramesh Sharan and Nirupma Sharan had purchased plots of land from Arpana Sahkari Grih Nirman Samiti Limited, Patna. Whereas the petitioner had purchased the land through sale deed dated 26.11.1987, Samiti plot No. 232A having an area of 2700 Sq. feet, the other two had purchased plot Nos. 203 and 204 with it parts, being amalgamated with each other in favour and handed over the possession of it to them. Thereafter aforesaid owner executed four sale deeds dated 09.04.1999 from original purchasers from the Society, namely, Ramesh Sharan and Nirupma Sharan. Subsequently, respondent Nos. 9 and 10 entered into a development agreement dated 09.07.2010 with M/s Maa Developers.

4. In course of time dispute arose between M/s Maa Developers and the present petitioner, giving rise to Land dispute case No. 96 of 2012-13 before competent authority



under the Act filed by the petitioner. The petitioner alleged that the builders/developers, namely, Maa Developers Firm, had encroached upon certain area of land belonging to the petitioner. He sought a direction for demarcation and removal of encroachment made by the Developers who have been, herein, impleaded as respondent Nos. 6 and 7. The Deputy Collector Land Reforms, Danapur acting as competent authority allowed the application of the petitioner on the basis of report of an Advocate Commissioner appointed in course of the said proceeding. The matter went to the appellate authority at the instance of Respondent Nos. 6 and 7 which was dismissed by the appellate authority. Aggrieved by the order of the appellate authority under the Act, Respondent No.7 filed an application before the Tribunal, giving rise to BLT Case No. 30 of 2014, which has been allowed by the impugned order, which is under challenged in the present writ application.

5. Learned counsel appearing on behalf of the petitioner has submitted that there is absolutely no dispute over title of the petitioner in respect of the land which he had purchased on 26.11.1987 from the Cooperative Society. He further contends that the report of the Advocate Commissioner bears the signature of respondent Nos. 6 and 7 also and,



therefore, its correctness could not have been questioned by them. He has thirdly submitted that the Tribunal has wrongly held it to be a title dispute between the parties in the light of the decision of this Court in case of **Maheshwer Mandal Vs. State of Bihar** reported in **2018(3) PLJR 1007**, since according to him, there is no dispute touching title over the land in question at all.

6. Learned counsel appearing on behalf of the State has submitted, on the other hand, that there does not appear to be any legal infirmity in the impugned order.

7. I have perused the impugned order passed by the Tribunal and pleadings on record and have given my anxious consideration to the submission made on behalf of the petitioner. What is evident from the impugned order is that the Tribunal has taken into account the law laid down by this Court in case of **Maheshwar Mandal** (supra), with particular reference to paragraphs 48 and 49 thereof, which have been quoted in the order. I do not find much substance in the submission made on behalf of the petitioner that a dispute in respect of boundary would not involve a question of title. According to his own submission, respondent Nos. 6 and 7 have encroached upon some area of the land belonging to the petitioner. The fact as to



whether respondent Nos. 6 and 7 have encroached upon the land or not or whether the land which they are occupying is within the area, which forms part of the development agreement or not or whether the land in question with the area over which respondent Nos. 6 and 7 are having possession, were acquired by the land owners, viz, Respondent Nos. 9 and 10, are such questions which could not have been adjudicated upon in a proceeding under the Act in the light of this Court's decision in case of **Maheshwar Mandal** (supra).

8. The Tribunal has rightly held that the competent authority and the appellate authority under the Act could not have decided these issues of right title and interest in respect of the disputed piece of land. The Tribunal has given the parties a liberty to get the dispute resolved before competent Court of civil jurisdiction.

9. I do not find any legal infirmity in the order of the Tribunal.

10. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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